

REMARKS

All of pending claims 1, 3, 26-27, 33-40, and 42-45 stand rejected. Claims 2, 4-25, 28-32, 41, and 46-65 were withdrawn from consideration. New claims 66-77 are added herewith. Claims 19, 35, and 55 were previously canceled and claims 21-25, 37, and 57-61 are canceled herewith.

In view of claim 37's cancellation due to incorporation of its relevant language into claim 1, the dependencies of claims 38 and 41 are also amended herewith. In addition, due to the addition of claim 76, the dependencies of claims 20, 36, and 56 have been amended accordingly.

Existing Claims

Claim 1 as well as claims 3, 26-27, 33-36, and 42-43 (each of which ultimately depends from claim 1) stand rejected under 35 U.S.C. §102(b) as allegedly being anticipated by European Patent Document No. EP 0 346 957 ("Bristow"). Notably, claim 37 was not included in that rejection. Claim 1 is amended herewith to essentially incorporate the substance of claim 37 therein (without the limitations of intervening claim 3, which do not appear to affect patentability of claim 37 in light of Bristow). As the substance of claim 37 has now been essentially incorporated into claim 1, and claim 37 was previously indicated to be patentable over Bristow in the Office Action dated February 27, 2006, it is believed that this rejection is overcome. Withdrawal of this rejection with respect to claims 1, 3, 26-27, 33-36, and 42-43 is respectfully requested.

Further, withdrawal of the rejections of claims 1, 3, 26-27, 33-40, and 42-45 under 35 U.S.C. §103 based primarily on U.S. Patent No. 4,943,432 ("Biener") is also respectfully requested for the reasons discussed during the telephone interview and set forth in Applicants' Response to Final Office Action submitted on May 30, 2006. It is noteworthy that claims similar to currently amended claim 1 and those claims dependent therefrom were determined by the U.S. Patent & Trademark Office to be patentable over Biener when granting assignee's related U.S. Patent No. 5,804,203.

New Claims

Support for new claims 66-77 can be found throughout the originally filed specification. Support for new claim 76 can be found, for example, in originally filed claims 19, 35, and 55. Support for new claim 77 can be found, for example, on page 18, lines 11-14.

Support for new claim 66 can be found, for example, in the discussion on page 15, line 9, to page 17, line 20, page 18, lines 11-14, page 26, line 21, to page 27, line 6, and the numerous examples set forth in the application. Indeed, in the background discussion of the invention therein, it is noted that strontium salts such as strontium chloride have been employed in dentifrices and are reported to reduce tooth sensitivity, but only following two to six weeks of continuous use. (Page 15, lines 19-22) Further, in contrast to that of the tooth, the human skin – to which compositions of the invention are directed – presents a much more complicated sensory and structural environment. (Page 17, lines 7-20) Thus, it would not be expected that a composition effective for reducing sensitivity in teeth over an extended time period (*e.g.*, a dentifrice as recited in the proviso of claim 66) would also be effective as a topical formulation for reducing skin irritation and vice versa.

In addition, those of ordinary skill in the art would not be expected to utilize a dentifrice as a topical product applied to the skin. Topical products applied to the skin inherently have a different primary activity than that of a dentifrice, which is by definition primarily directed to cleaning of teeth. As such, the formulations for a dentifrice vis-à-vis a topical formulation for reducing skin irritation would be expected to differ irrespective of how they are in fact used. It is respectfully submitted that those of ordinary skill in the art are readily able to differentiate between and prepare such different formulations. Advantageously, formulations of the present invention all preserve the primary activity of the topical product while allowing the anti-irritant activity of the strontium salt to provide consumer benefit. (Page 26, line 21, to page 27, line 6) Again, these formulations are distinct from dentifrices and, as such, a proviso in that regard is recited in claim 66.

As a further example of support for the new claims, support for new claim 67 can be found on pages 28-29 and 57-58 of the specification in regards to the discussion of strontium nitrate concentration being 1,500 mM. In addition, these weight percentages are the same as those recited in claims issued in related U.S. Patent No. 5,804,203. Support for new claim 68 can be found, for example, on page 20, lines 10-13. Support for new claims 69-70 can be found, for example, on page 1, line 14, to page 2, line 19. Specific support for claim 70 can be found, for example, on page 18, lines 11-14, of the specification. Support for new claims 71-74 can be found, for example, on 32, line 14, to page 33, line 23, of the specification. Support for new claim 75 can be found, for example, on page 1, line 14, to page 2, line 19, and page 18, lines 11-14. New claims 66-75 added herewith specifically exclude the oral compositions of Bristow and further differentiate the claimed invention from Biener.

During the telephonic interview, it was discussed that Bristow relates to an oral composition containing an agent for desensitizing teeth. In conjunction with its purpose of being an oral composition, the compositions of Bristow also require a particulate abrasive material, which is hydroxyapatite, as a tooth cleaning and polishing agent (*i.e.*, the active ingredient of those compositions). As discussed with the Examiner, new claims 66-75 are explicitly directed to formulations other than dentifrices.

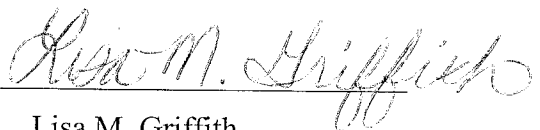
As also discussed during the telephonic interview, Biener does not teach or suggest compositions comprising a non-strontium active ingredient for effecting primary activity of the topical formulation (which is treatment of psoriasis) or a salt comprising aqueous-soluble divalent strontium cation in the amount recited in claim 67. Nor does Biener, which specifies optional use of a minor amount of strontium cations in combination with many other cations as an active ingredient for treatment of psoriasis, teach or suggest compositions consisting essentially of aqueous-soluble divalent strontium cation and one or more counteranions as recited in claim 68. Like Bristow, Biener also does not teach or suggest depilatory formulations as recited in claims 69-74 or compositions for effective removal of hair with reduced skin irritation comprising a non-strontium active agent for removal of hair as recited in claim 75.

Conclusion

Upon entry of this amendment and accompanying remarks, claims 1, 3, 26-27, 33-34, 36-40, 42-45, and 66-77 will be pending in the present application, with claims 2, 4-18, 20-25, 28-32, 41, 46-54, and 56-65 being withdrawn in the absence of rejoinder. It is respectfully submitted that no new matter is introduced by this amendment and all rejections are believed to be overcome. If deemed useful in order to further prosecution of this application to allowance, the Examiner is invited to contact the undersigned by telephone, e-mail, facsimile, or written communication.

Respectfully Submitted,

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